

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

OFFENSE CHARGED

- Count One: 15 U.S.C. Section 1 - Bid Rigging (Contra Costa County) Petty
- Count Two: 18 U.S.C. Section 1349 - Conspiracy to Commit Mail Fraud (Contra Costa County) Minor Misdemeanor Felony

PENALTY: Maximum Terms for Count 1: (1) 10 years prison; (2) fine of \$1 million; (3) 3 years supervised release; (4) \$100 special assessment; and (5) Restitution. Maximum Terms for Count 2: (1) 30 years prison; (2) fine of \$1 million; (3) 5 years supervised release; (4) \$100 special assessment; and (5) Restitution.

DEFENDANT - U.S.

Wesley Barta

PJH

DISTRICT COURT NUMBER

CR13-00413

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

SHOW DOCKET NO.

U.S. ATTORNEY DEFENSE

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form Albert Sambat, Dept of Justice

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding. 1) If not detained give date any prior summons was served on above charges

2) Is a Fugitive

3) Is on Bail or Release from (show District)

FILED JUN 27 2013 RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA OAKLAND

IS IN CUSTODY

4) On this charge

5) On another conviction

Federal State

6) Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: None

If Summons, complete following:

Arraignment Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: Before Judge:

Comments:

PENALTY SHEET

Individual: Wesley Barta

15 U.S.C. § 1 – Bid Rigging (Count 1)

Maximum Penalties:

1. A term of imprisonment of 10 years
2. A fine of \$1 million, or two times the gross gain or loss, whichever is greater
3. A period of supervised release of not more than 3 years
4. \$100 special assessment per count (\$100)
5. Restitution

18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Count 2)

Maximum Penalties:

1. A term of imprisonment of 30 years
2. A fine of \$1 million
3. A period of supervised release of not more than 5 years
4. \$100 special assessment per count (\$100)
5. Restitution

1 JEANE HAMILTON (CSBN 157834)
2 ALBERT B. SAMBAT (CSBN 236472)
3 DAVID J. WARD (CSBN 239504)
4 CHRISTINA M. WHEELER (CSBN 203395)
5 MANISH KUMAR (CSBN 269493)
6 MICAH L. WYATT (CSBN 267465)
7 LIDIA MAHER (CSBN 222253)
8 E. KATE PATCHEN (NYRN 4104634)

E-filing

9 U.S. Department of Justice
10 Antitrust Division
11 450 Golden Gate Avenue
12 Box 36046, Room 10-0101
13 San Francisco, CA 94102
14 albert.sambat@usdoj.gov
15 Telephone: (415) 436-6660

FILED

JUN 27 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Attorneys for the United States

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

CR13-00413 PJH

16 UNITED STATES OF AMERICA

18 v.

20 WESLEY BARTA,

21 Defendant.

) Criminal No.
)
) INFORMATION
)
) VIOLATIONS: 15 U.S.C. § 1 –
) Bid Rigging (Count One);
) 18 U.S.C. § 1349 – Conspiracy to
) Commit Mail Fraud (Count Two)

23 The United States of America, acting through its attorneys, charges:

24 WESLEY BARTA,

25 the defendant herein, as follows:

26 BACKGROUND

27 1. At all times relevant to this Information, when California homeowners defaulted
28 on their mortgages, mortgage holders could institute foreclosure proceedings and sell the

1 properties through non-judicial public real estate foreclosure auctions (“public auctions”). These
2 public auctions were governed by California Civil Code, Section 2924, *et seq.* Typically, a
3 trustee was appointed to oversee the public auctions. These public auctions usually took place at
4 or near the courthouse of the county in which the properties were located. The auctioneer, acting
5 on behalf of the trustee, sold the property to the bidder offering the highest purchase price.
6 Proceeds from the sale were then used to pay the mortgage holders, other holders of debt secured
7 by the property, and, in some cases, the defaulting homeowner (collectively, “beneficiaries”).

8 COUNT ONE: 15 U.S.C. § 1 – Bid Rigging (Contra Costa County)

9 THE COMBINATION AND CONSPIRACY

10 2. Beginning as early as June 2008 and continuing until in or about January 2011,
11 the defendant, WESLEY BARTA, and co-conspirators entered into and engaged in a
12 combination and conspiracy to suppress and restrain competition by rigging bids to obtain
13 selected properties offered at public auctions in Contra Costa County in the Northern District of
14 California, in unreasonable restraint of interstate trade and commerce, in violation of the
15 Sherman Act, Title 15, United States Code, Section 1.

16 3. The charged combination and conspiracy consisted of a continuing agreement,
17 understanding, and concert of action among the defendant and his co-conspirators to suppress
18 competition by agreeing to refrain from or stop bidding against each other to purchase selected
19 properties at public auctions in Contra Costa County at non-competitive prices.

20 4. For the purpose of forming and carrying out the charged combination and
21 conspiracy, the defendant and his co-conspirators did those things that they combined and
22 conspired to do, including, among other things:

23 a. agreeing not to compete to purchase selected properties at public auctions
24 in Contra Costa County;

25 b. designating which conspirator would win the selected properties at the
26 public auctions for the group of conspirators; and

27 c. refraining from or stopping bidding for the selected properties at the
28 public auctions.

1 5. Various entities and individuals, not made defendants in this Count, participated
2 as co-conspirators in the offense charged and performed acts and made statements in furtherance
3 thereof.

4 TRADE AND COMMERCE

5 6. During the period covered by this Information, the business activities of the
6 defendant and his co-conspirators that are the subject of this Information were within the flow of,
7 and substantially affected, interstate trade and commerce. For example, beneficiaries located in
8 states other than California received proceeds from the public auctions that were subject to the
9 bid-rigging conspiracy.

10 JURISDICTION AND VENUE

11 7. The combination and conspiracy charged in this Information was carried out, in
12 part, in the Northern District of California, within the five years preceding the filing of this
13 Information.

14 ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

15 COUNT TWO: 18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud (Contra Costa County)

16 THE CONSPIRACY

17 8. Beginning as early as June 2008 and continuing until in or about January 2011 in
18 Contra Costa County in the Northern District of California, the defendant, WESLEY BARTA,
19 and his co-conspirators did willfully and knowingly combine, conspire, and agree with each
20 other to violate Title 18, United States Code, Section 1341, namely, to knowingly devise and
21 intend to devise and participate in a scheme and artifice to defraud beneficiaries, and to obtain
22 money and property from beneficiaries by means of materially false and fraudulent pretenses,
23 representations, and promises.

24 9. The objects of the conspiracy were to fraudulently acquire title to selected
25 properties sold at public auctions in Contra Costa County, to make and receive payoffs, and to
26 divert money to conspirators that would have gone to the beneficiaries.

27 //

28 //

1 10. Various entities and individuals, not made defendants in this Count, participated
2 as co-conspirators in the offense charged and performed acts and made statements in furtherance
3 thereof.

4 MEANS AND METHODS

5 11. For the purpose of forming and carrying out the charged conspiracy, the
6 defendant and his co-conspirators did those things that they conspired to do, including, among
7 other things:

- 8 a. purchasing selected properties at public auctions at suppressed prices;
9 b. in some instances, negotiating payoffs with one or more conspirators not
10 to compete;
11 c. in many other instances, holding second, private auctions at or near the
12 courthouse steps where the public auctions were held, frequently referred to as "rounds," open
13 only to members of the conspiracy, to bid for title to the selected properties;
14 d. awarding the selected properties to the conspirators who submitted the
15 highest bids at the second, private auctions;
16 e. transferring the right to title to the selected properties into the names of the
17 conspirators who submitted the highest bids at the second, private auctions;
18 f. paying conspirators monies that otherwise would have gone to
19 beneficiaries, using either a predetermined formula based on the bidding at the second, private
20 auction or through direct negotiations among the conspirators;
21 g. taking steps to conceal the fact that monies were diverted from the
22 beneficiaries to the conspirators;
23 h. making and causing to be made materially false and misleading statements
24 on records of public auctions that trustees relied upon to distribute proceeds from the public
25 auction to the beneficiaries and convey title to properties sold at the public auction; and
26 i. causing the suppressed purchase price to be reported and paid to the
27 beneficiaries.


28 //

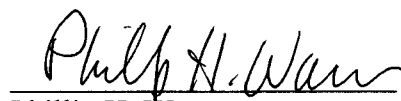
1 12. For the purpose of executing the scheme and artifice to defraud and attempting to
2 do so, the defendant and his co-conspirators knowingly used and caused to be used the United
3 States Postal Service and private or commercial interstate carriers. For example, trustees used
4 the United States mail and private or commercial interstate carriers to transmit the Trustee's
5 Deeds Upon Sale and other title documents to participants in the conspiracy. These mailings
6 were foreseeable to the defendant in the ordinary course of business.

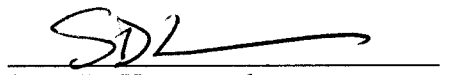
7 JURISDICTION AND VENUE

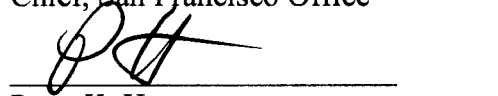
8 13. The combination, conspiracy, and agreement to violate Title 18, United States
9 Code, Section 1341 charged in this Information was carried out, in part, in the Northern District
10 of California, within the five years preceding the filing of this Information.

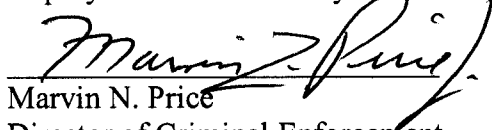
11 ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1349.

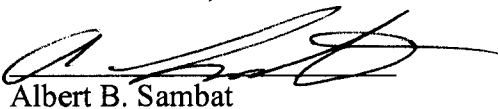
12 
13 William J. Baer
14 Assistant Attorney General

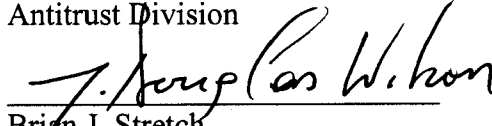

Phillip H. Warren
Chief, San Francisco Office

15 
16 Scott D. Hammond
17 Deputy Assistant Attorney General


Peter K. Huston
Assistant Chief, San Francisco Office

18 
19 Marvin N. Price
20 Director of Criminal Enforcement
United States Department of Justice
Antitrust Division


Albert B. Sambat
Jeane Hamilton
David J. Ward
Christina M. Wheeler
Manish Kumar
Micah L. Wyatt
Lidia Maher
E. Kate Patchen
Trial Attorneys
U.S. Department of Justice
Antitrust Division

21 
22 Brian J. Stretch
23 Attorney for the United States
24 Acting Under Authority Conferred
by 28 U.S.C. § 515

United States District Court
Northern District of California

CRIMINAL COVER SHEET

CR-13-413-PJH

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case. Please place this form on top of the Defendant Information Form.

Case Name:

USA v. WESLEY BARTA

Case Number:

Total Number of Defendants:

1 2-7 _____ 8 or more _____

Is This Case Under Seal?

Yes _____ No

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes _____ No

Venue (Per Crim. L.R. 18-1):

SF _____ OAK SJ _____

Is this a death-penalty-eligible RICO Act gang case?

Yes _____ No

Assigned AUSA (Lead Attorney):

ALBERT SAMBAT

Comments:

[Empty rectangular box for comments]

Date Submitted:

June 27, 2013

